

To: Elizabeth Oliner(liz@olinerlaw.com)
Subject: U.S. Trademark Application Serial No. 97462358 - PAGODA
Sent: April 03, 2023 04:56:03 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 97462358

Mark: PAGODA

Correspondence Address:
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Applicant: NEAR Stiftung

Reference/Docket No. N/A

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NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

Request an extension. For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant’s response to this letter within six months of the “Issue date” to avoid abandonment of the application.

Issue date: April 3, 2023

SUMMARY OF ISSUES:

- Unclear Entity Designation
- Identification of Goods and Services

The assigned examining attorney has reviewed the referenced application and determined the

following.

NO CONFLICTING MARKS

The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

UNCLEAR ENTITY DESIGNATION

The application identifies applicant as NEAR Stiftung, a “foundation.” This is not an acceptable legal entity designation because it does not identify a particular legal entity recognized by the United States. *See* TMEP §803.03. Therefore, applicant must specify the particular type of legal entity applying, e.g., corporation, association, partnership, or joint venture, and provide the additional information explained below about that entity. *See* 37 C.F.R. §§2.32(a)(3)(ii)-(v), 2.61(b); TMEP §803.03.

If applicant is a corporation, applicant must specify the U.S. state or foreign country under which it is incorporated. 37 C.F.R. §2.32(a)(ii); TMEP §803.03(c).

If applicant is an association, applicant must specify the U.S. state or foreign country under whose laws the applicant is organized or exists, and indicate whether the association is incorporated or unincorporated. 37 C.F.R. §2.32(a)(ii); TMEP §803.03(c).

If applicant is a partnership, applicant must specify the U.S. state or foreign country under whose laws the partnership is organized. 37 C.F.R. §2.32(a)(ii); TMEP §803.03(b). In addition, for a U.S. partnership, applicant must list, if not yet specified, the names, legal entities, and national citizenship (for individuals), or the U.S. state or foreign country of organization or incorporation (for businesses) of all general partners. 37 C.F.R. §2.32(a)(iii). For foreign partnerships, the names and citizenships of the general partners are not required. *See* TMEP §803.03(b).

If applicant is a joint venture, applicant must specify the U.S. state or foreign country under whose laws the joint venture is organized. 37 C.F.R. §2.32(a)(ii); TMEP §803.03(b). In addition, for a U.S. joint venture, applicant must list the names, legal entities, and national citizenship (for individuals) or the U.S. state or foreign country of organization or incorporation (for businesses) of all active members of the joint venture. 37 C.F.R. §2.32(a)(iv); TMEP §803.03(b). For foreign joint ventures, the names and citizenships of the active members are not required. TMEP §803.03(b).

If, in response to the above request, applicant provides information indicating that it is not the owner of the mark, registration will be refused because the application was void as filed. *See* 37 C.F.R. §2.71(d); TMEP §§803.06, 1201.02(b). An application must be filed by the party who owns or is entitled to use the mark as of the application filing date. *See* 37 C.F.R. §2.71(d); TMEP §1201.02(b).

IDENTIFICATION OF GOODS AND SERVICES

The wording “Cryptocurrency services, namely, providing a digital currency or digital token in the nature of a virtual currency for use by members of an on-line community via a global computer

network; cryptocurrency services, namely, providing a digital currency or digital token being virtual currency, incorporating cryptographic protocols, used to operate and build applications and blockchains on a decentralized computer platform and as a method of payment for goods and services;” in the identification of services is indefinite and must be clarified. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO’s online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). *See* TMEP §1402.04.

The following is suggested for the other classifications:

Downloadable electronic publications ~~in the field of blockchain technology~~ **(repetitive)**; namely, briefs, newsletters, blog posts, journals, articles, case studies, practice guides, manuals, abstracts, fact sheets, white papers, and reports in the field of blockchain technology; downloadable computer software for enabling the creation of software applications to be deployed using blockchain technology; downloadable computer application software for operating a decentralized blockchain network, namely, distributed application software for data processing, secure data sharing, and managing financial and application-specific transactions on a blockchain and all the libraries and tools that provide third party developers the ability to interact with this blockchain by enabling them to upload their software into this network and conduct further transaction in International Class 9.

~~Cryptocurrency services, namely, providing a digital currency or digital token in the nature of a virtual currency for use by members of an on-line community via a global computer network; cryptocurrency services, namely, providing a digital currency or digital token being virtual currency, incorporating cryptographic protocols, used to operate and build applications and blockchains on a decentralized computer platform and as a method of payment for goods and services; business incubator financing services, namely, facilitating and arranging for financing of emerging and start-up companies in International Class 36.~~

Providing online, non-downloadable software for enabling the creation of software applications to be deployed using blockchain technology; platform as a service (PAAS) featuring a decentralized computer software platform for enabling scalable computing and storage and deploying and running decentralized software applications; software design and development in the field of blockchain technology, ~~namely, for enabling the creation of software applications~~; providing online, non-downloadable computer software platforms for developing, building, and operating distributed applications in International Class 42.

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

How to respond. File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

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RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on April 3, 2023 for
U.S. Trademark Application Serial No. 97462358

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.